



**MICHIGAN
CHAMBER**
of Commerce

House Bill 4563 Fact Sheet
Michigan's Uniform Unclaimed Property Act

The Michigan Uniform Unclaimed Property Act is a statute which addresses tangible and intangible "unclaimed" property, and the duties and obligations of both holders (generally businesses), and the state, as administrator and custodian. "Unclaimed" property includes gift cards, uncashed payroll checks, uncashed utility credits, physical property and more. Much of this type of property belongs to individuals.

However states' often consider unresolved transactions between businesses such as credit balances, accounts receivables, credit balances/memos, and uncashed vendor payments as "unclaimed" or abandoned. However businesses conduct thousands of transactions with other businesses each year and are in the best position to determine whether another business holds their property, and how to reconcile their own transactions. Business-to-business credit balances are so common in commercial transactions that requiring such items to be turned over to the state unnecessarily increases the cost of doing business. **Compliance with Michigan's UPA is a huge, hidden cost of doing business in this state..**

Unfortunately many states view it as a source of "revenue." This property should not be considered a source of "revenue" but rather the state should view itself as the last resort stopping point for property when the owner cannot be found; nothing more. It also begs the question of why states' believe they should inject themselves between business transactions when businesses have the incentive, opportunity and wherewithal to collect what is owed to them

In 2007, a landmark federal court decision shut down California's unclaimed property program highlighted the fact that many states are guilty of putting the desire for revenue ahead of the purpose of unclaimed property laws. The court reprimanded California's unclaimed property program and reminded State officials that, "If the purpose of the law is...to reunite owners with their lost or forgotten property, its ultimate goal should be to generate little or no revenue at all for the state."

What the legislation would do:

House Bill 4563 simply exempts "Business To Business" Transactions from Michigan's Unclaimed Property Act

Why does this Act need to be amended?

Remove Impediments to Doing Business in Michigan

To maintain our economic competitiveness, Michigan must continue to improve its business climate in a variety of ways, including the administration of unclaimed property. Often overlooked, but significantly impacting the bottom line of many companies, the tracking and reporting of abandoned property costs Michigan's job providers millions of dollars every year. We urge you to support this important legislation.

For further questions regarding the proposed legislation, please contact Tricia Kinley, (517) 371-7669 or tkinley@michamber.com or Jim Holcomb at (517) 371-7696 or jholcomb@michamber.com.



Unclaimed Property

Policy Position

Position: *State unclaimed property programs should seek to unite owners with their property in the manner that is least burdensome to owners, holders and the State. Toward that end, such programs must:*

- *Provide clear, reasonable and consistent definitions of items included in and excluded from the definition of abandoned or unclaimed property;*
- *Exclude from the definition of abandoned or unclaimed property unidentified remittances, credit balances arising from business to business transactions, merchandise due bills, gift cards and gift certificates;*
- *Exclude items that are accounting or bookkeeping discrepancies, fraudulent transactions, or that do not have a rightful owner other than the holder;*
- *Provide a reasonable statute of limitations for holders; and*
- *Ensure that administration of State unclaimed property statutes is conducted in a fair, even-handed and predictable manner by banning contingent-fee arrangements to compensate outside auditors and by providing holders access to an independent tribunal to appeal the findings or assessment resulting from an unclaimed property audit.*

Explanation: Many State unclaimed property programs have deviated from their true purpose of uniting owners with their property and have instead become alternative revenue sources for states. This conversion has greatly harmed owners who are never reunited with their property and holders who are forced to bear significant administrative costs and may even be required to turn over property which is not truly abandoned. Adopting the provisions recommended by COST will help to return unclaimed property programs to their rightful purpose.

Many states also have overbroad definitions of property types and surprise holders by inventing new types of property they deem as unclaimed—so much so that some states have re-opened old audit periods to search for new property types. These practices cause confusion and impose onerous record-keeping burdens on holders. Moreover, such practices often fail to produce real accounts with real individuals attached to them and instead result in “owner unknown” property. Owner unknown property consists of funds that will never be returned to the rightful owner—assuming there is a rightful owner other than the holder (e.g., as in the case of items deemed abandoned by the State based on statistical sampling of a bookkeeping error).

Unclaimed property statutes must exclude property types that are defined primarily to enhance State revenue rather than a desire to reunite a lost owner with his or her unclaimed property. To that end, the following property types should be excluded from the definition of unclaimed property or limited in their scope:

- Credit balances between business associations – Businesses are in the best position to determine whether another business holds their property, and they do not desire the assistance of the State in making such determinations. When two companies reconcile and settle their accounts, it makes no sense for the State to come in years later and re-open those closed books and records to determine whether one business may hold property that belongs to another business. Credit balances between business associations should be excluded from unclaimed property laws.